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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/275,495	03/24/1999	VLADIMIR GARTSTEIN	7081M	9817

27752 7590 04/04/2002

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER

MERCADO, JULIAN A

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 04/04/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/275,495

Applicant(s)

GARTSTEIN ET AL.

Examiner

Julian A. Mercado

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1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-12, 14-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12, 14-22, 28 and 29 is/are allowed.
- 6) ☐ Claim(s) 1-11 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Remarks*

This Office Action is responsive to Applicant's amendment filed January 24, 2002.

Claims 1-12, 14-22 and 24-29 are pending.

The rejection of claims 12, 14, 28 and 29 under 35 U.S.C. 103(a) based on Stewart and Shambaugh et al. has been withdrawn.

The rejection of claims 15-22 under 35 U.S.C. 103(a) based on Stewart, Shambaugh et al., and Nagai et al. has been withdrawn.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al.*

Nagai has been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al* as applied for claims 1-7 and 24-27 above, in view of Stewart.

Nagai and Stewart have been discussed extensively in the previous Office Action(s). The rejection is maintained for the reasons of record.

*Response to Arguments*

Applicant's arguments filed January 24, 2002 have been fully considered but they are not persuasive.

Applicant submits that Nagai clearly monitors voltage and that there is no mention of being responsive to a "predetermined condition... substantially determined by said internal impedance". [emphasis as submitted]

However, upon closer reading of Nagai, the examiner maintains that Nagai meets this limitation. In Nagai, the internal impedance of the cell is inversely related to the detected voltage level. (Col. 9 lines 40-56) The impedance is lowered with the expected and detectable result of an increase in voltage. If in doing so the voltage level remains low or does not appreciably increase, the life of the cell is determined as fully consumed. Thus, it is considered that the predetermined condition of cell voltage is substantially determined by the internal impedance, in that the voltage level is increased with concomitant decrease in cell impedance. As Applicant submits and to which the examiner acquiesces, it is the increase in voltage (or lack thereof) that is detected in Nagai.

It appears to the examiner that Applicant is distinguishing from Nagai as the patentees "teach a circuit that is responsive to changes in output voltage". The scope of the present claims, however, allows for such a teaching to read onto the claims.

Arguments against Stewart within the scope of Nagai in view of Stewart appear to be directed to this reference not remedying any alleged deficiencies in the Nagai reference. However, as Nagai is maintained above to teach or at least suggest the instant invention, Nagai in view of Stewart is similarly maintained for the reasons discussed in the previous Office Action.

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Arguments against Stewart and Shambaugh are considered moot, as the ground of rejection based on a combination of these references has been withdrawn.

The examiner notes that Applicant did not formally traverse the ground of rejection based on Stewart, Shambaugh *and* Nagai. (see paragraph no. 5 on page 7 of Applicant's response)

Applicant appears to have omitted a discussion of Nagai in the combination of references relied upon in the rejection. However, an argument against Nagai when taken further in view based on Stewart and Shambaugh is considered moot, as the ground of rejection based on Stewart and Shambaugh has been obviated.

***Allowable Subject Matter***

Claims 12, 14-22, 28 and 29 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record and to the examiner's knowledge does not teach or render obvious at least to the skilled artisan the instant invention regarding a multiple-cell battery having a first and second battery, the first and second battery having a respective internal impedance and a controller, wherein a circuit coupled to one of the first and second controllers is responsive to a predetermined condition substantially determined by the first and second internal impedance in order to uncouple a respective output voltage from the battery.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-3599 for After Final communications.

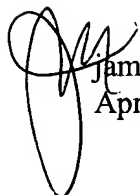
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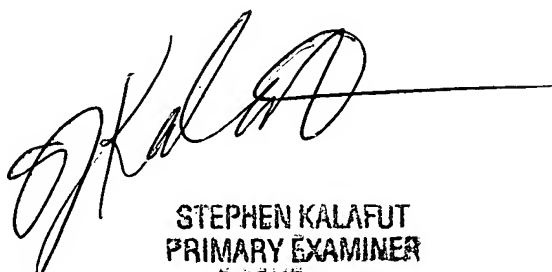
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

 jam  
April 2, 2002

  
STEPHEN KALAFUT  
PRIMARY EXAMINER  
GROUP 1700